## **EXHIBIT C**



October 2, 2024

## VIA EMAIL AND CERTIFIED MAIL

Downshift Motoring 19223 Colima Rd # 927 Rowland Heights, California 91748-3005

Ego Speed Inc. Yawhong Tsai 19223 Colima Rd # 927 Rowland Heights, California 91748-3005 downshiftmoto0711@gmail.com

Ego Speed Inc. 19913 Harrison Ave. Walnut, California 91789

Ego Speed Inc. 19917 Harrison Ave. City of Industry, California 91789

Re: Notice of Infringement/Counterfeiting of Audi AG's ("Audi") Intellectual Property

Dear Owner(s), Operator(s) and/or Executive(s) of Downshift Motoring:

We represent Audi in its intellectual property matters. Audi is one of the world's leading automobile companies, with roots dating back to the early 1900s. Audi designs, engineers, manufacturers, markets, and sells millions of vehicles in nearly every country across the globe, as well as vehicle parts and accessories, and other related goods, including but not limited to, license plate frames, plaques for affixing to automobiles, key rings, and key chains (collectively, the "Audi Products") under the AUDI house mark. Audi's famous AUDI brand is considered one of the most valuable brands in the world and is consistently listed in Interbrand's annual survey of the "Best Global Brands."

In addition to the AUDI house mark, Audi uses an extensive portfolio of marks in connection with the Audi Products. These marks include, but are not limited to, A3, A4, A5, A6, A7, A8, E-TRON,

<sup>1</sup> See e.g., https://interbrand.com/best-global-brands/.

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Q3, Q4, Q5, Q6, Q7, Q8, Q8S, QUATTRO, R8, RS, RS3, RS4, RS5, RS6, RS7, RS Q8, RSQ6, S LINE, S3, S4, S5, S6, S7, S8, SQ5, SQ7, SQ8, TFSI, TT, TTS, TTRS, and the Audi Four Ring Logo:



(together with the AUDI house mark, collectively, the "Audi Marks"). Audi is the sole and exclusive owner of all right, title, and interest in and to any and all unregistered and registered intellectual property rights in its AUDI brand and Audi Products, including any and all trademarks, trade dress, copyrights, design patents, and any other proprietary rights that may exist worldwide, covering or related to the Audi Products, including the Audi Marks (collectively, the "Audi IP").

As non-limiting examples, Audi owns the following incontestable U.S. Trademark Registration Nos.: 4995364 for **AUDI** for goods in Classes 9, 12, 14, 16, 27, 28, and 37; 3098878 for **A3** for goods in Classes 12 and 28; 1990408 for A4 for goods in Class 12; 3068391 for A5 for goods in Class 12; 1957319 for **A6** for goods in Class 12; 3355302 for **A7** for goods in Class 12; 2067529 for **A8** for goods in Class 12; 4078535 for E-TRON for goods in Classes 12 and 28; 3524464 for O3 for goods in Class 12; 3112195 for **Q5** for goods in Class 12; 3123813 for **Q7** for goods in Class 12; 1283271 for QUATTRO and 3241273 for QUATTRO for goods in Class 12; 3076893 for R8 for goods in Class 12; 3966469 for **RS3** for goods in Class 12; 2889135 or **RS4** for goods in Classes 12 and 18; 4440628 for RS7 and 5367990 for RS7 (stylized) for goods in Class 12; 4405143 for S (stylized) for goods in Class 12; 2875529 for S LINE for goods in Class 12; 3835128 for S3 for goods in Class 12; 2499526 for S4 for goods in Class 12; 3324676 for S5 for goods in Class 12; 1917829 for S6 for goods in Class 12; 3421582 for **S7** for goods in Class 12; 2534302 for **S8** for goods in Class 12; 3970590 for **SQ5** for goods in Class 12; 3521639 for TFSI and 3329624 for TFSI for goods in Class 12; 2519018 for TT for goods in Class 12; 4109426 for TT RS for goods in Class 12; 3496779 for TTS for goods in Class 12; 3201037 for the Audi Four Ring Logo for goods in Class 12; 3007305 for the Audi Four Ring Logo for goods in Classes 3, 6, 9, 12, 14, 16, 18, 21, 24, 25, and 28; as well as 2083439 for the Audi Four Ring Logo positioned above AUDI as shown below for goods and services in Classes 12 and 42:

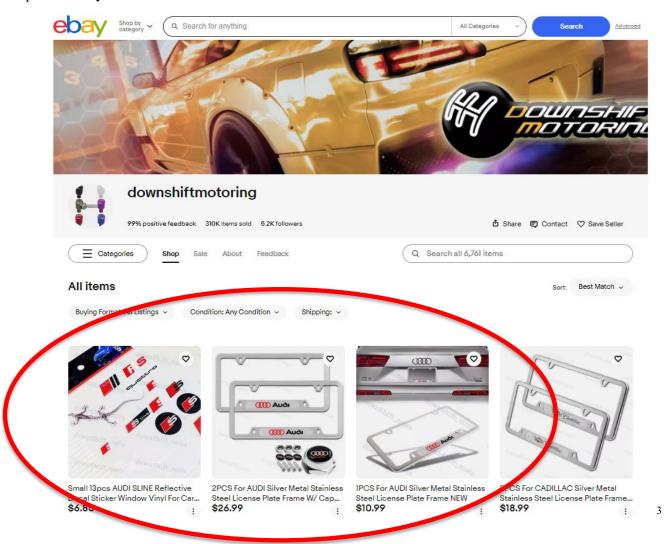


As further non-exhaustive examples, Audi also owns U.S. Trademark Registration Nos.: 6138588 for **E-TRON** for goods in Classes 3, 6, 11, 14, 17, and 24; 5457305 for **RS** (stylized) for goods in Classes 6 and 12; 5718753 for **RS5** (stylized) for goods in Class 12; 5479356 for **RS Q8** for goods in Classes 9, 12, and 28; 6104299 for **RS6** for goods in Class 12; 6976392 for **RSQ6** for goods in Class 12; 5837139 for **S LINE** for goods in Classes 9 and 20 including emblems; 5640084 for **SQ7** for goods in

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Classes 12 and 28; 5441847 for **SQ8** for goods in Classes 9, 12, 25, and 28. No one other than Audi is authorized to use the Audi IP without the express written permission of Audi.

You are receiving this notice because it has recently come to our attention that you and/or your business(es), Downshift Motoring, downshift\_motoring (e-Bay),<sup>2</sup> and Ego Speed Inc. (collectively, "Downshift Motoring") have been manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, soliciting sales of, selling and/or otherwise making available products that infringe the Audi IP, including numerous of the Audi Marks ("Infringing Products") via eBay (the "Downshift Motoring Store"). Downshift Motoring's actions are particularly damaging to Audi given that Downshift Motoring prominently features the Audi IP in connection with the Infringing Products on the Downshift Motoring Store. Specifically, Downshift Motoring's extensive use of the Audi IP is immediately apparent on the Downshift Motoring Store landing page on eBay, which prominently features numerous Audi Marks:



<sup>&</sup>lt;sup>2</sup> See, <u>https://www.ebay.com/str/downshiftmotoring</u>.

<sup>&</sup>lt;sup>3</sup> See, https://www.ebay.com/str/downshiftmotoring.

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Exemplary screenshots of Downshift Motoring Store's Infringing Products are enclosed herewith as **Exhibit A**.

Downshift Motoring's actions reflect a deliberate disregard of Audi's intellectual property rights. Downshift Motoring's unauthorized use of the Audi IP is not only intended to (and actually does) confuse, deceive and/or misdirect consumers as to the source or origin of its Infringing Products, but also leads to the belief that the Infringing Products are connected, affiliated with, approved or otherwise sponsored by Audi, when, in fact, they are not.

Downshift Motoring's deception is further exacerbated by the extensive use of the downshift\_motoring eBay seller name in direct proximity to the Audi IP within Downshift Motoring's as shown in the non-limiting example below:



Likewise, Downshift Motoring's use of alleged manufacturer approval language such as "Backed with Manufacture's [sic] Best Quality – Buy with Confidence" falsely suggests that Downshift Motoring is an authorized seller of genuine Audi Products. See Exhibit A. Downshift Motoring's knowledge of its lack of authorization to use the Audi IP, and Downshift Motoring's resulting willfulness is further evidenced by Downshift Motoring's notation on one listing that "all brand names and trademarks are the

<sup>&</sup>lt;sup>4</sup> See, https://www.ebay.com/itm/153921601308.

<sup>&</sup>lt;sup>5</sup> See, id.

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property of their respective owners and are used for descriptive purposes only." To be clear, Downshift Motoring's extensive and flagrant unauthorized use of the Audi IP is neither descriptive nor excused by such notation.

Moreover, since the marks used on or in connection with the Infringing Products are virtually identical, or at the very least, confusingly similar, to *numerous* of the Audi Marks, there is no question that Downshift Motoring is intentionally trading off of the substantial goodwill associated with Audi and its Audi IP. For example, as shown in **Exhibit A**, Downshift Motoring's Infringing Products prominently feature marks which are virtually identical to, or at the very least, confusingly similar to *multiple* of the Audi Marks.

Be advised that Downshift Motoring's use of the Audi Marks constitutes one or more of the following: trademark infringement, trademark dilution, and/or unfair competition, which, if pursued in court in the U.S., would entitle Audi to seek, among other things, statutory damages (up to \$2,000,000 per counterfeit mark), and attorneys' fees.

In light of the foregoing, we demand that Downshift Motoring <u>immediately cease and desist</u> any and all production, importation, exportation, advertising, marketing, promotion, distribution, display, solicitation of sales and/or sales of the Infringing Products and remove any and all references to Audi and the Audi Marks from eBay, the Downshift Motoring Store, and any other online or physical locations where the Infringing Products are available. We also demand that Downshift Motoring comply with the following <u>within five (5) days of the date of this notice</u>:

- 1. Confirm in writing that all manufacture (domestic and foreign), importation, exportation, advertising, marketing, promotion, distribution, display, solicitation of sales and sales of the Infringing Products has ceased and that Downshift Motoring has ceased and will refrain from any and all future use of the Audi Marks and any marks that are likely to cause confusion with the Audi Marks;
- 2. Surrender all Infringing Products and ancillary goods in Downshift Motoring's possession, custody or control;
- 3. Provide us with a complete list of ALL sources of Infringing Products (*i.e.*, name and address of the manufacturer, importer, distributor, and/or retailer);
- 4. Provide us with a full accounting of all purchases (number of units and price) of the Infringing Products, from the date of the first sale of any of the Infringing Products to present, and ANY and ALL documentation of Downshift Motoring's transaction(s) with Downshift Motoring source(s). This includes, but is not limited to: correspondence/communications received or sent by Downshift Motoring concerning the Infringing Products, agreements between Downshift Motoring and its source(s), and ALL purchase records evidencing such purchases of the Infringing

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<sup>&</sup>lt;sup>6</sup> See.

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Products (*i.e.*, order forms, payment records, receipts, invoices, and shipping documents, etc.); and

5. Provide us with a full accounting of all sales (number of units and price) of the Infringing Products, including total dollar amounts and ALL sales and inventory records reflecting the same.

Audi considers Downshift Motoring's egregious conduct to constitute a serious violation of Audi's rights and to be very damaging to Audi's business, reputation, and the goodwill associated with the Audi Marks. Downshift Motoring's failure to comply with the demands set forth herein will only assure Audi of Downshift Motoring's intention to continue to willfully infringe the Audi Marks. In such a situation, Audi will take any and all actions necessary to enforce its rights to the fullest extent of the law. Accordingly, we thank you for Downshift Motoring's anticipated cooperation and prompt attention to this matter.

Nothing in this notice shall be construed as a waiver or relinquishment of any rights or remedies possessed by Audi or any other affected party.

Sincerely,

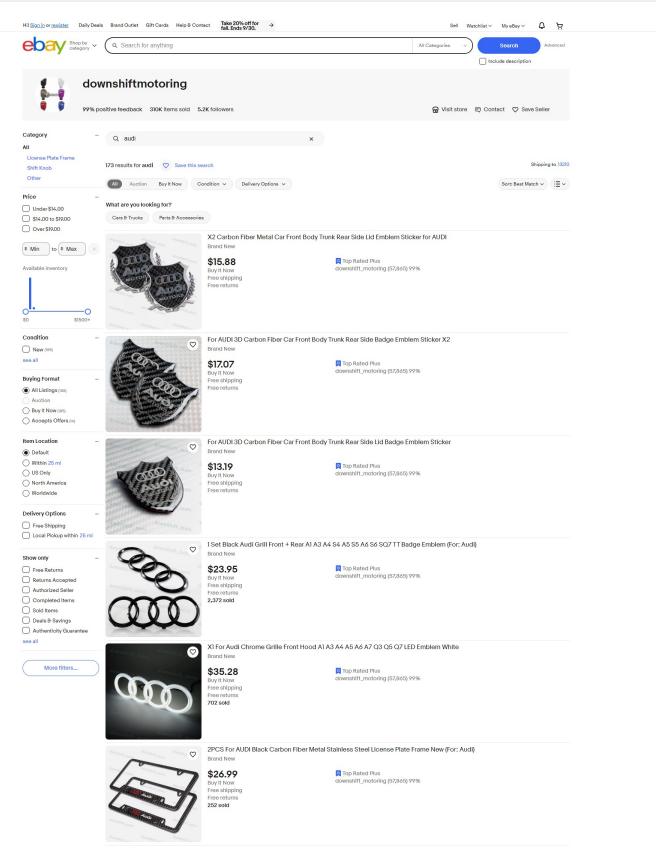
William C. Wright

**EPSTEIN DRANGEL LLP** 

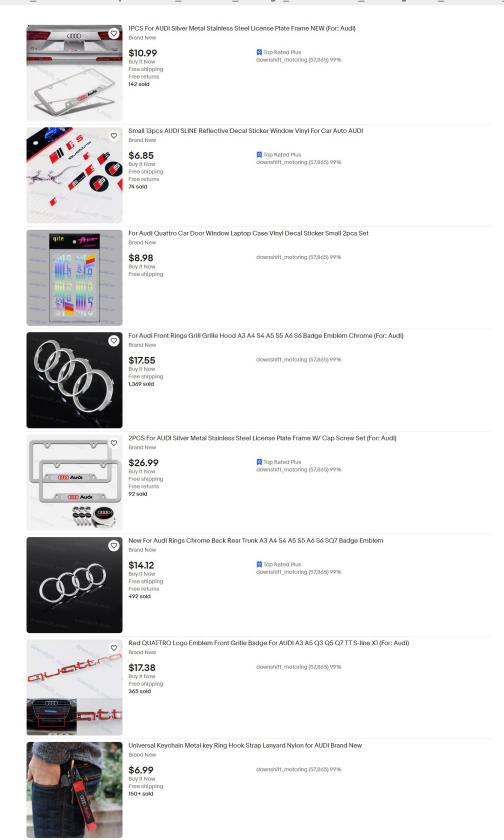
Enclosure.

Case 1:24-cv-09492-LGS Document 1-3 Filed 12/12/24 Page 8 of 29 EXHIBIT A

Page 1
Audi for sale | eBay
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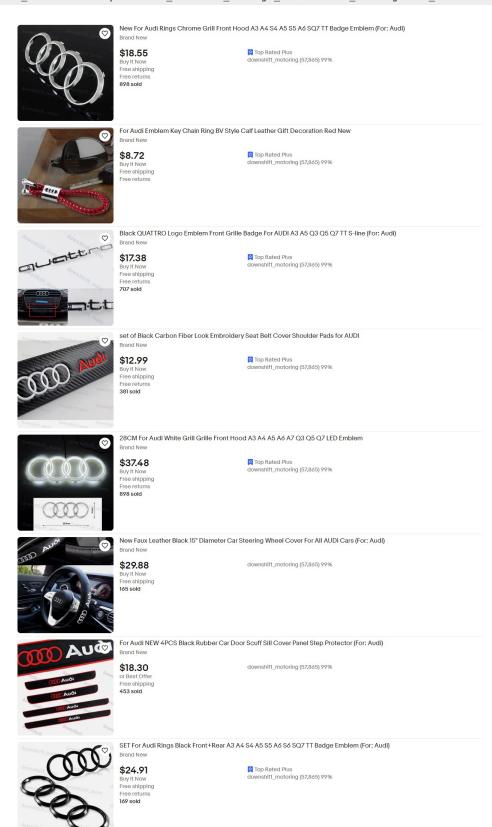


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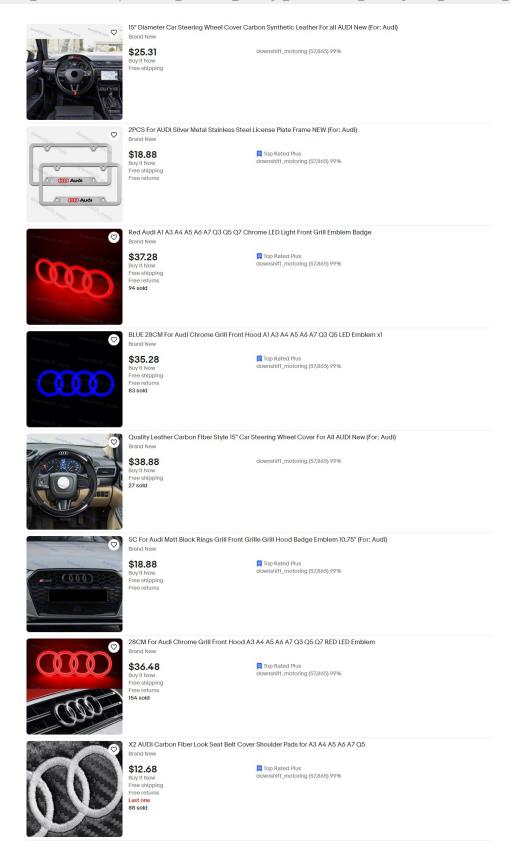


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For Audi Emblem Key Chain Ring BV Style Calf Leather Gift Decoration Brown New

\$9.39 Buy It Now Free shipping Free returns

Top Rated Plus downshift motoring (57,865) 99%



IPCS Audi Rear Chrome Rings Trunk A1 A3 A4 S4 A5 S5 A6 S6 SQ7 TT Badge Emblem (For: Audi) Brand New

\$14.48 Buy It Now Free shipping 120 sold

Top Rated Plus downshift\_motoring (57,865) 99%



For Audi Blue Border Rubber Car Door Scuff Sill Cover Panel Step Protector 4pcs (For: Audi)

\$17.30

or Best Offer Free shipping 72 sold

downshift motoring (57,865) 99%



For AUDI Carbon Fiber Look License Plate Frame ABS X2 New

Brand New

\$18.80 Free shipping 58 sold

downshift\_motoring (57,865) 99%



For Audi Black Rings ABS Rear Trunk A1 A3 A4 S4 A5 S5 A6 S6 Back Badge Emblem (For: Audi)

Brand New

\$15.08 Buy It Now Free shipping 54 sold

Top Rated Plus downshift\_motoring (57,865) 99%



X1 For AUDI Carbon Fiber Look License Plate Frame ABS New

Brand New

\$12.86 or Best Offer Free shipping downshift\_motoring (57,865) 99%



X1 Glossy Black Audi Back Rear Trunk A1 A3 A4 S4 A5 S5 A6 S6 SQ7 TT Badge Emblem Brand Nev

\$14.59 Buy It Now Free shipping Free returns Top Rated Plus downshift\_motoring (57,865) 99%

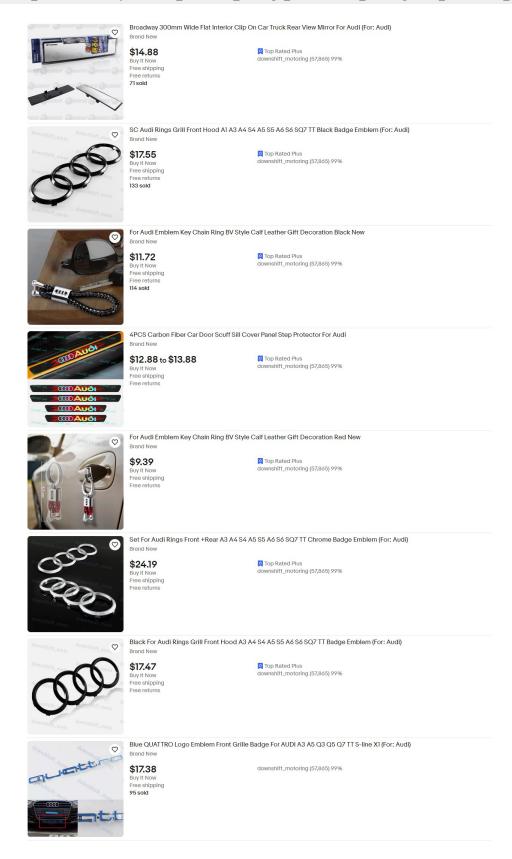


For Audi Rear Rings A8 S8 Q7 Emblem Boot Sticker Badge Matte Black 215mm x 70mm (For: Audi)

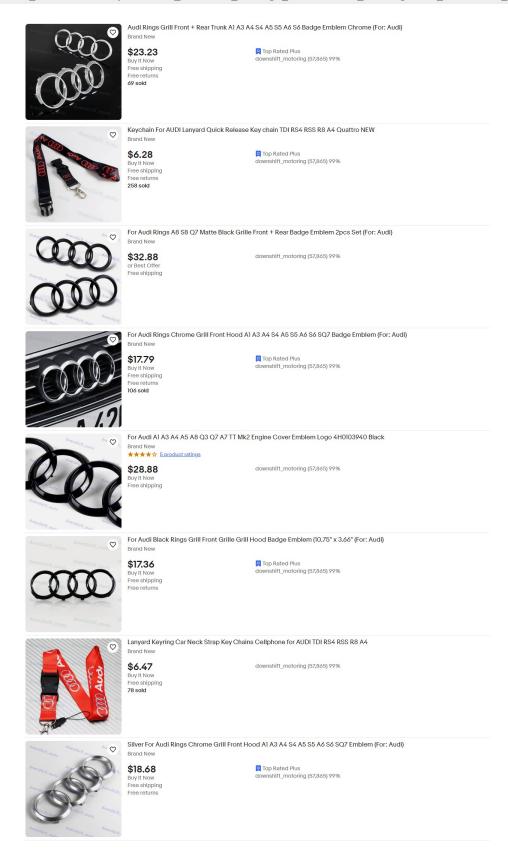
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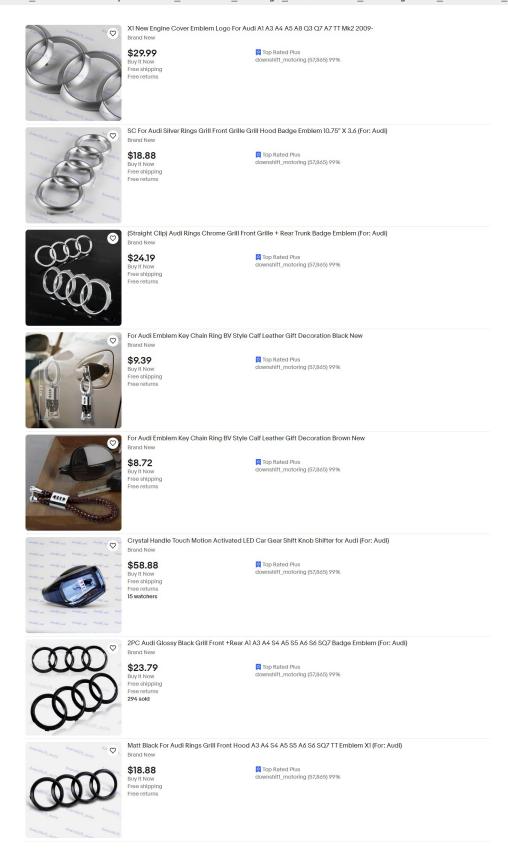
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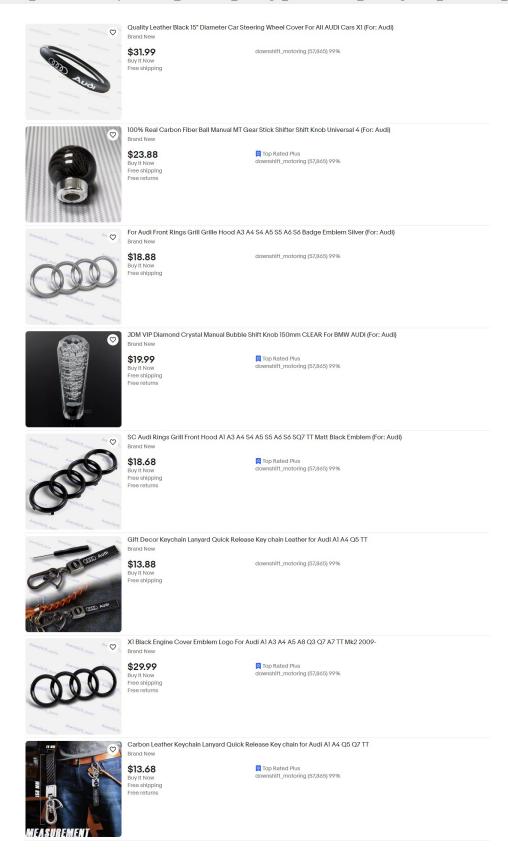


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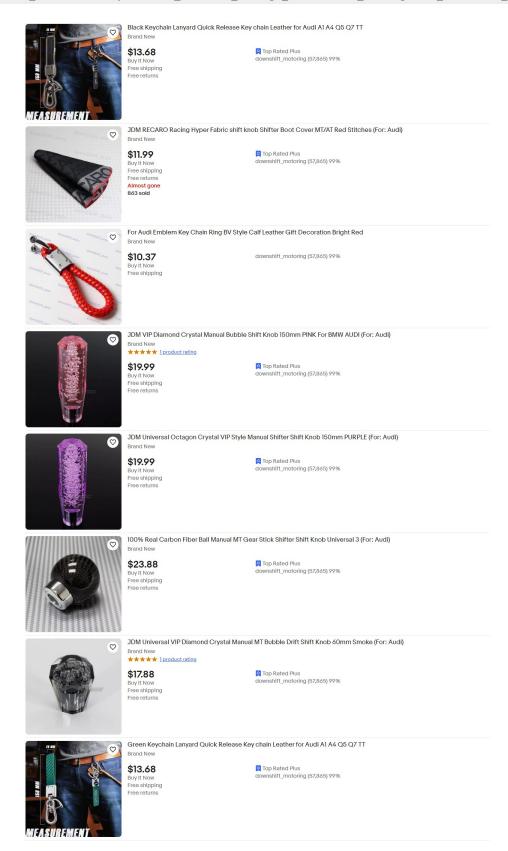


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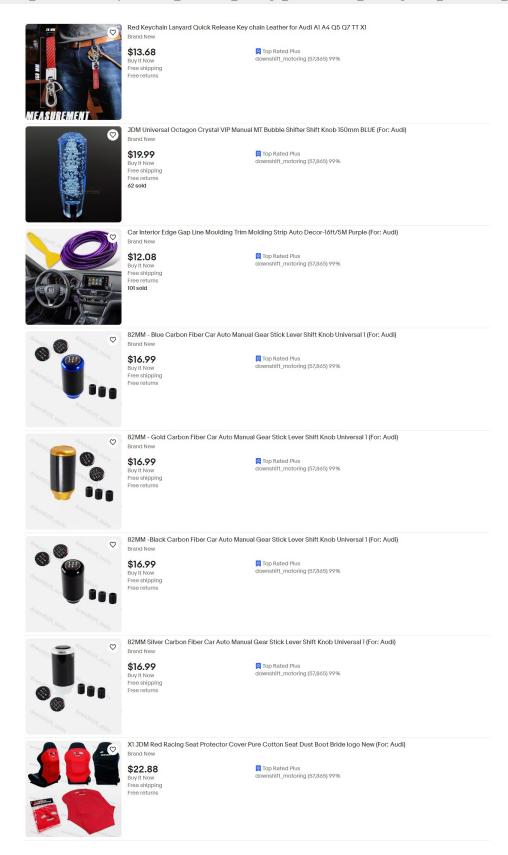
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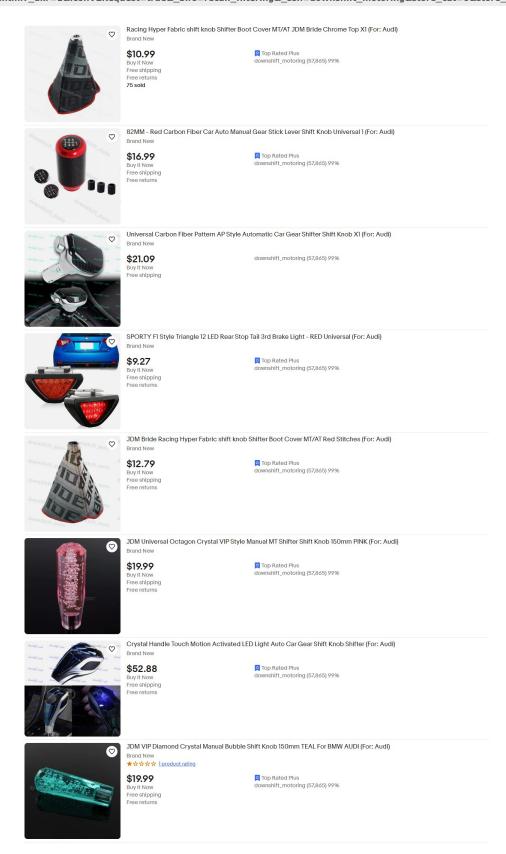
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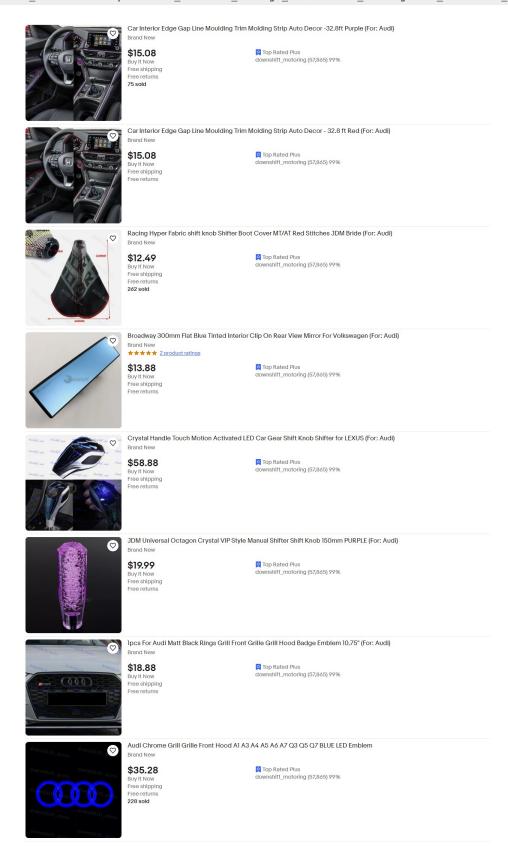
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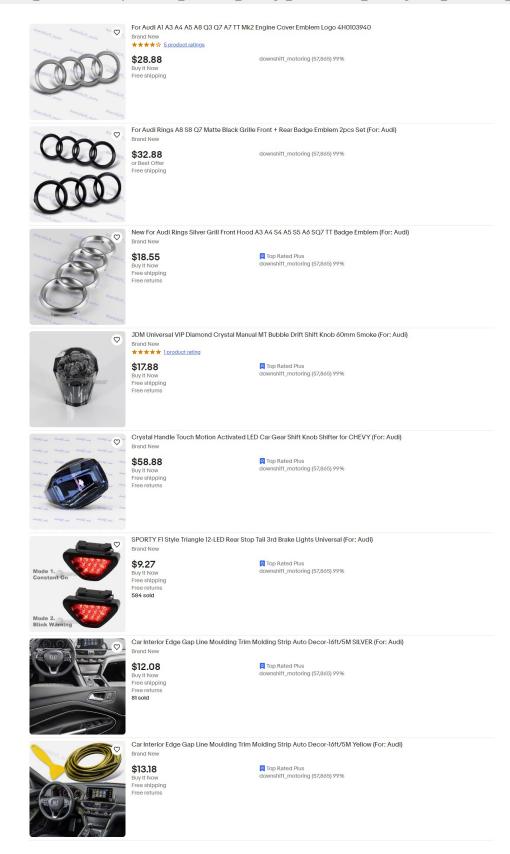
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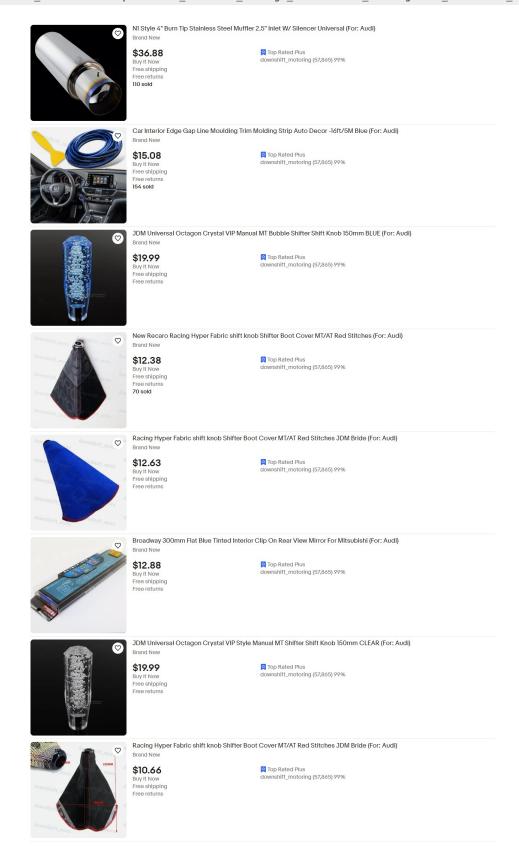


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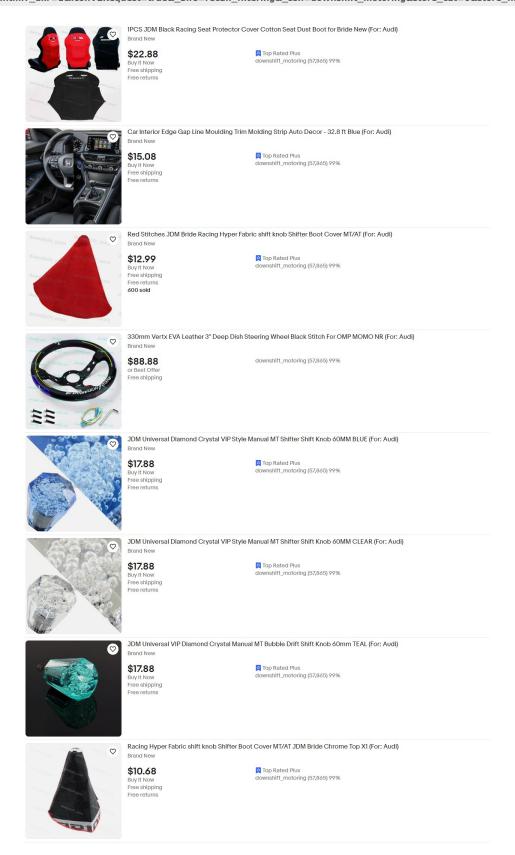


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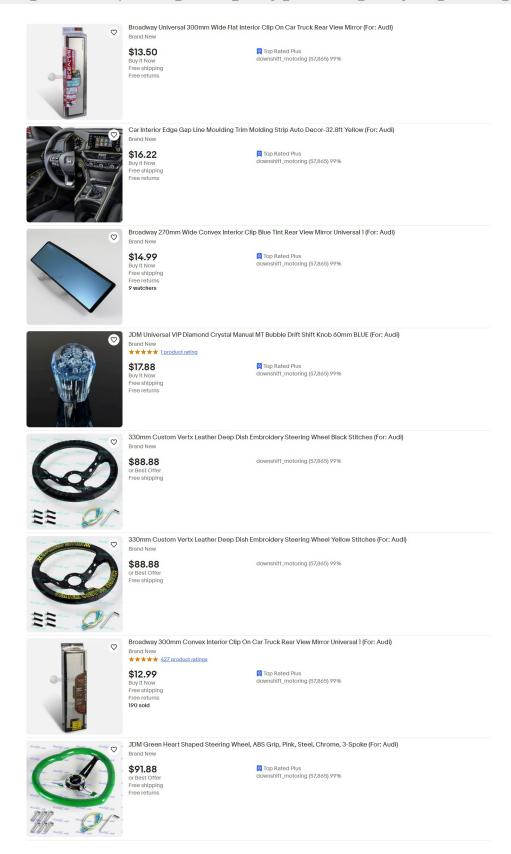
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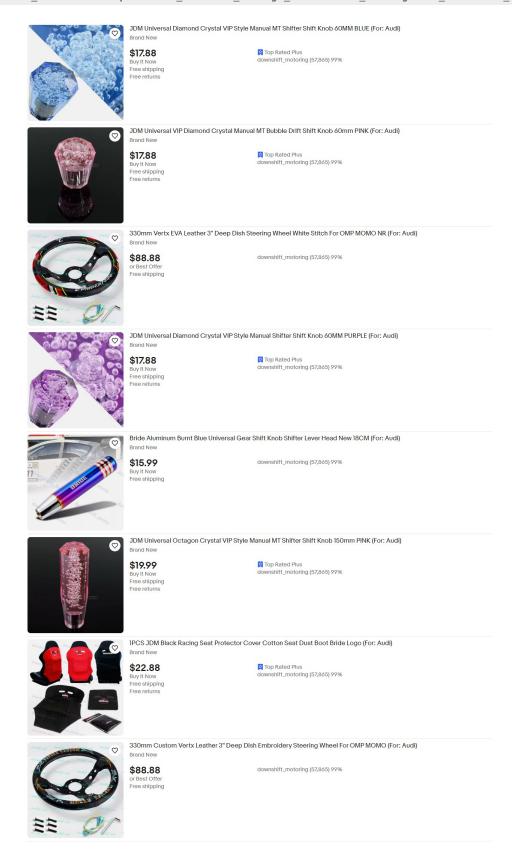
Broadway 300mm Wide Flat Interior Clip On Car Truck Rear View Mirror For Nissan (For: Audi) 0 Brand New \$14.99 Top Rated Plus downshift motoring (57.865) 99% Buy It Now Free shipping Car Interior Edge Gap Line Moulding Trim Molding Strip Auto Decor - 16ft/5M Red (For: Audi) Brand New \$12.08 Top Rated Plus downshift motoring (57,865) 99% Buy It Now Free shipping JDM Universal Octagon Crystal VIP Style Manual MT Shifter Shift Knob 150mm CLEAR (For: Audi) Ø Brand Nev \$19.99 Top Rated Plus downshift\_motoring (57,865) 99% Buy It Now Free shipping Free returns XI JDM Red Racing Seat Protector Cover Pure Cotton Seat Dust Boot for Bride New (For: Audi) Brand New \$22.88 Top Rated Plus downshift\_motoring (57,865) 99% Buy It Now Free shipping Universal Broadway 300mm Wide Convex Interior Clip On Car Truck Rear View Mirror (For: Audi) Brand New \$13.50 Top Rated Plus nshift\_motoring (57,865) 99% Buy It Now Free shipping Free returns Broadway 300mm Wide Flat Interior Clip On Car Truck Rear View Mirror Universal 1 (For: Audi) Brand New ★★★★☆ <u>1product rating</u> \$13.99 Top Rated Plus downshift\_motoring (57,865) 99% Buy It Now Free shipping Free returns Car Interior Edge Gap Line Moulding Trim Molding Strip Auto Decor - 32 ft SILVER (For: Audi) Brand New \$15.08 Top Rated Plus downshift\_motoring (57,865) 99% Buy It Now Free shipping Free returns JDM Universal Diamond Crystal VIP Style Manual Shifter Shift Knob 60MM TEAL (For: Audi) Brand New Top Rated Plus downshift\_motoring (57,865) 99% \$17.88 Buy It Now Free shipping Free returns

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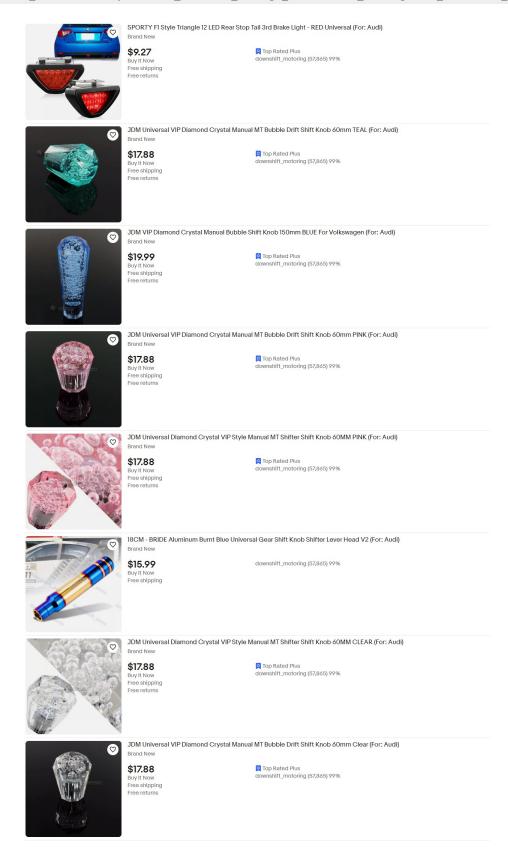


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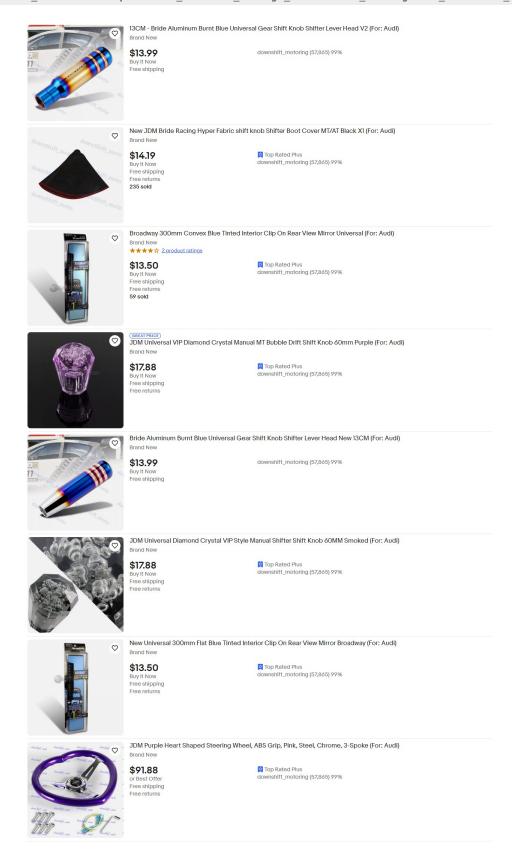


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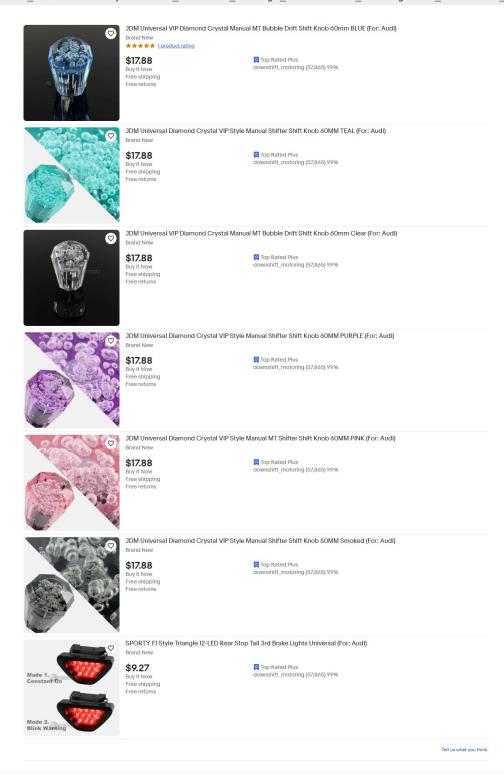
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